

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY DIETZ,

Plaintiff,

v.

MIDLAND CREDIT MANAGEMENT INC.,

Defendant.

Case No. 3:14-cv-05114-RBL

**DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES**

Defendant Midland Credit Management, Inc. ("MCM") answers plaintiff's "Verified Complaint for Relief" ("the complaint") as follows:

NATURE OF THE ACTION

1. Admits that this purports to be an action for money damages, but denies any liability and further denies that plaintiff is entitled to recover any damages.

2. Denies the allegations in paragraph 2.

PARTIES

3. MCM lacks sufficient information to form a belief as to the truth of the allegations in paragraph 3 and, therefore, denies those allegations.

4. Admits the allegations in paragraph 4.

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

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JURISDICTION AND VENUE

5. Admits that the court generally has subject matter jurisdiction over this case, but denies that jurisdiction is based on the reasons alleged in paragraph 5 of the complaint. MCM denies the remaining allegations in paragraph 5.

6. Admits that venue is proper in this court, but denies the remaining allegations in paragraph 6.

7. Admits that the court generally has subject matter jurisdiction over claims for violation of the Telephone Consumer Protection Act, 47 U.S.C. §227(b)(3) ("TCPA"), but denies the remaining allegations in paragraph 7.

8. Admits that venue is proper in this court. MCM denies the remaining allegations in paragraph 8, based in part on a lack of sufficient information to form a belief as to the truth of those allegations.

9. Admits that venue is proper in this court. MCM denies the remaining allegations in paragraph 9, based in part on a lack of sufficient information to form a belief as to the truth of those allegations.

10. Admits that it does business in the State of Washington, and that it generally is in the business of collecting delinquent accounts. MCM denies the remaining allegations in paragraph 10.

11. Admits that the court generally has subject matter jurisdiction over this case, but denies that jurisdiction is based on the reasons alleged in paragraph 11 of the complaint. MCM denies the remaining allegations in paragraph 11.

12. Admits that the court generally has subject matter jurisdiction over this case, but denies that jurisdiction is based on the reasons alleged in paragraph 12 of the complaint. MCM denies the remaining allegations in paragraph 12.

13. Denies the allegations in paragraph 13.

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

1 14. Admits that venue is proper in this court, but denies the remaining
2 allegations in paragraph 14.

3 **BACKGROUND**

4 15. Denies the allegations in paragraph 15.

5 16. Denies the allegations in paragraph 16.

6 17. Denies the allegations in paragraph 17, based in part on a lack of
7 sufficient information to form a belief as to the truth of those allegations.

8 18. MCM lacks sufficient information to form a belief as to the truth of the
9 allegations in paragraph 18 and, therefore, denies those allegations.

10 19. Denies the allegations in paragraph 19.

11 20. Denies the allegations in paragraph 20.

12 **“VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT 47**

13 **U.S.C. § 227(b)(1)(A)(iii) WILLFUL NON-COMPLIANCE BY MIDLAND**

14 **CREDIT MANAGEMENT, INC.”**

15 21. As to paragraph 21, MCM admits and denies as alleged above.

16 22. Admits that the provisions of 47 U.S.C. § 227(b)(1)(A)(iii) speak for
17 themselves, but denies the remaining allegations in paragraph 22.

18 23. Except as specifically admitted above, MCM denies each and every
19 allegation of the complaint.

20 **AFFIRMATIVE DEFENSES**

21 24. Plaintiff fails to state factual matter sufficient to constitute a claim against
22 MCM that is plausible on its face.

23 25. Plaintiff consented to the conduct for which he seeks relief.

24 26. Plaintiff waived his rights to obtain any or all of the relief sought in the
25 Complaint.

26 **DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES**

CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury that I served a true and correct copy of the foregoing **DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES** on the date indicated below by:

- ☐ electronic mail,
☒ mail with postage prepaid, deposited in the US mail at Portland, Oregon,
☐ hand delivery,
☐ facsimile transmission,
☐ overnight delivery,

I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to plaintiff at the address listed below:

Timothy Dietz
2503 34th Avenue
Longview, WA 98632
Plaintiff *Pro Se*

DATED: February 13, 2014

/s/ Robert E. Sabido
Robert E. Sabido